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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,604	01/25/2001	Stephen M. Howard	EMC-002PUS	4397

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EMC CORPORATION  
c/o DALY, CROWLEY, MOFFORD & DURKEE, LLP  
354ATURNPIKE STREET  
SUITE 301A  
CANTON, MA 02021-2714

EXAMINER
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OSMAN, RAMY M

ART UNIT	PAPER NUMBER
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2157

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/24/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

09/769,604

Applicant(s)

HOWARD ET AL

Examiner

Ramy M. Osman

Art Unit

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                                  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____   |

## DETAILED ACTION

### *Status of Claims*

1. This communication is in response to amendments filed on November 17, 2006, where applicant amended claims 1,2,12,15. Claims 1-15,17-21 are pending.
2. An Applicant-Initiated Interview was conducted on 11/15/2006. See Interview Summary

### *Response to Arguments*

3. Applicant's arguments, filed 11/17/2006, with respect to the rejection(s) of claim(s) 1-15,17-21 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Davis et al (US Patent No 6,594,677).

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1-15,17-21 rejected under 35 U.S.C. 102(e) as being anticipated by Davis et al (US Patent No 6,594,677).**
6. In reference to claim 1, Davis teaches a method of restoring backed up data, comprising:

Art Unit: 2157

retrieving, by a data backup and storage system, a list of objects that are restorable by a client having a backup/restore module and a logical volume manager to communicate with a storage system, the backup storage system having a storage system interface to communicate with the storage system, a backup storage unit to store backed up data, and a network interface to communicate with the client (column 6 lines 20-50);

displaying the list of restorable objects for browsing by a user, wherein the restorable objects are located on a plurality of physical storage devices (column 3 lines 1-15);

generating a first list of restorable objects marked for restoration by the user, wherein each of the restorable objects is associated with a particular library, wherein the library supports at least one catalog containing information for the backed up data including media type and metadata (column 5 lines 40-57);

submitting the first list of marked restorable objects to the backup storage system for restoration for the client (column 3 lines 1-15);

submitting a second list of marked restorable objects to the backup storage system (column 3 lines 1-15);

executing, by the backup storage system, a restoration of the submitted first and second lists of marked restorable objects via a remote procedure call such that first and second restore submissions can be made prior to restore execution (column 5 line 52 – column 6 line 8).

7. In reference to claim 2, Davis teaches the method according to claim 1, further including executing the first and second lists of marked restorable objects concurrently (column 5 lines 62-67).

Art Unit: 2157

8. In reference to claim 3, Davis teaches the method according to claim 1, further including initiating a restore session for the client. (column 3 line 50 – column 4 line 10).

9. In reference to claim 4, Davis teaches the method according to claim 3, further including creating a restore engine process for the retrieving, browsing, submitting and executing of restore objects (column 5 lines 10-60).

10. In reference to claim 5, Davis in view of Rodriguez teaches the method according to claim 4, wherein the client communicates with the restore engine process via remote procedure calls (column 3 line 50 – column 4 line 10).

11. In reference to claim 6, Davis in view of Rodriguez teaches the method according to claim 4, wherein the restore engine process is created by a dispatch daemon on a backup storage system server. (column 7 line 55 – column 8 line 20).

12. In reference to claim 7, Davis teaches the method according to claim 4, wherein the restore engine process is terminated upon completion of the restore execution (column 7 line 55 – column 8 line 20).

13. In reference to claim 8, Davis in view of Rodriguez teaches the method according to claim 4, wherein the restore engine process runs on a backup data storage server and further including creating a work item restore process on the backup data server, a server restore process for generating a stream of data to be restored, and a client restore process for receiving the data stream. (column 7 line 55 – column 8 line 20).

14. In reference to claim 9, Davis teaches the method according to claim 4, further including detecting and identifying libraries that support associated catalogs of backed up data for processing of backed up data by the restore engine process. (column 5 lines 40-57)

Art Unit: 2157

15. In reference to claim 10, Davis teaches the method according to claim 9, further including adding a new library supporting new methods of backing up data (column 5 lines 40-57).

16. In reference to claim 11, Davis teaches the method according to claim 9, further including determining object types for backed up data supported by the libraries (column 5 lines 40-57).

17. In reference to claims 12,13 and 15, Davis teaches a method of restoring backed up data and a corresponding system, comprising:

initiating a restore session for a first client through a graphical user interface associated with the client (column 3 line 50 – column 4 line 10);

establishing a connection between the graphical user interface and the restore engine process (column 3 line 50 – column 4 line 10);

displaying a list of restorable objects for browsing by a user associated with the client via the graphical user interface under the control of the restore engine process (column 3 lines 1-15);

identifying restorable objects marked for restoration by the user under control of the restore engine process (column 3 lines 1-15);

storing first and second lists of marked restorable objects submitted by the client to the restore engine process (column 3 lines 1-15); and

executing the restoration of the first and second lists of marked objects under control of the restore engine process independently of the browsing, marking and submitting of the restorable object such that multiple restore submissions can be made prior to restore execution (column 5 line 52 – column 6 line 8).

Art Unit: 2157

18. In reference to claim 14, Davis teaches the method according to claim 12, further including supporting a new backup data method by adding a library corresponding to the new backup data method. (column 5 lines 40-57)

19. In reference to claims 17, Davis teaches the system according to claim 15, wherein the restore engine process processes library's upon restore initialization such that libraries can be added to the system for supporting new backup methods. (column 5 lines 40-57)

20. In reference to claims 18, Davis teaches the system according to claim 17, further including a dispatch daemon for initiating the restore session (column 7 line 55 – column 8 line 20).

21. In reference to claims 19, Davis teaches the system according to claim 15, further including further restore engine processes corresponding to further restore sessions initiated by additional clients (column 7 line 55 – column 8 line 20).

22. In reference to claims 20, Davis teaches the system according to claim 19, further including additional restore triangles for executing multiple work item restores concurrently (column 5 lines 62-67).

23. In reference to claims 21, Davis teaches the system according to claim 15, wherein each of the restorable objects is associated with a particular library (column 5 lines 40-57).

### *Conclusion*

24. Applicant is advised that the above specified citations of the relied upon prior art are only representative of the teachings of the prior art, and that any other supportive sections within the

Art Unit: 2157

entirety of the reference(s) (including any figures, incorporation by references, and claims) is implied as being applied to teach the scope of the claims.

25. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M. Osman whose telephone number is (571) 272-4008. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.




Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RMO

January 19, 2007

  
ARJO ETIENNE  
SUPERVISORY PATENT EXAMINER  
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